

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

*In re* Flint Water Cases

Case No.: 5:16-cv-10444-JEL-MKM

Hon. Judith E. Levy

**Order Delineating the Duties of Interim Co-Lead Class Counsel and Co-Liaison Counsel for the Individual Actions and Creating a Plaintiffs' Executive Committee for the Proposed Class.**

On July 27, 2017, this Court entered an Order appointing Theodore Leopold of Cohen Milstein Sellers & Toll PLLC and Michael Pitt of Pitt McGehee Palmer & Rivers P.C., along with their respective firms as Interim Co-Lead Class Counsel and Corey Stern of Levy Konigsberg LLP and Hunter Shkolnik of Napoli Shkolnik PLLC as Co-Liaison Counsel for the individual personal injury and property damage cases pending in federal court. ECF No. 173.

On this 26th day of October 2017, the Court considered Plaintiffs' Submission Regarding Interim Co-Lead Class Counsel's Duties, the Duties of Co-Liaison Counsel for the Individual Actions, and the Creation of a Plaintiffs' Executive Committee for the Proposed Class. Having considered the submission,

**IT IS HEREBY ORDERED THAT:**

1. Interim Co-Lead Class Counsel shall be generally responsible for coordinating the activities of the putative class during pretrial proceedings while Co-Liaison Counsel for the Individual Actions shall be generally responsible for coordinating the individual actions during pretrial proceedings. Accordingly, for their respective Class or individual cases, Interim Co-Lead Class Counsel and Co-Liaison Counsel for the Individual Actions shall:

**a. Discovery**

(i) Initiate, coordinate, and conduct all pretrial discovery on behalf of the putative class or individual actions.

(ii) Develop and propose to the court schedules for the commencement, execution, and completion of all discovery on behalf of the putative class or individual actions.

(iii) Cause to be issued in the name of the putative class or individual actions the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation. Similar requests, notices, and subpoenas may be caused to be issued by the Interim Co-Lead Class Counsel and Co-Liaison Counsel upon written request by an individual attorney in order to assist him or her in the preparation of the pretrial stages of his or her client's claims.

(iv) Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of the putative class or individual actions. No attorney for an individual plaintiff or class member may be excluded from attending the examination of witnesses and other proceedings. Such attorney may suggest questions to be posed to deponents through the designated lead counsel provided that such questions are not repetitious.

**b. Hearings and Meetings**

(i) Call meetings of counsel for class counsel or counsel in the individual actions for any appropriate purpose, including coordinating responses to questions of other parties or of the Court. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings.

(ii) Examine witnesses and introduce evidence at hearings on behalf of the putative class or individual actions.

(iii) Act as spokesperson for all plaintiffs at the pretrial proceedings and in response to inquiries from the Court, subject of course to the right of any class member's or individual plaintiff's counsel to present non-repetitive individual or different positions.

**c. Miscellaneous**

(i) Submit and argue any verbal or written motions presented to the Court on behalf of the putative class or individual actions as well as oppose when necessary any motions submitted by defendants or other parties which involve matters within the sphere of the responsibilities of Interim Co-Lead Class Counsel or Co-Liaison Counsel for the Individual Actions.

(ii) Negotiate and enter into stipulations with defendants regarding this litigation. All stipulations entered into by Interim Co-Lead Class Counsel or Co-Liaison Counsel for the Individual Actions, except for strictly administrative details such as scheduling, must be submitted for Court approval and will not be binding until the court has ratified the stipulation. Any attorney not in agreement with a non-administrative stipulation shall file with the court a written objection thereto within one week after he or she knows or reasonably should have reasonably become aware of the stipulation. Failure to object within the term allowed shall be deemed a waiver, and the stipulation will automatically be binding on that party.

(iii) Interim Co-Lead Class Counsel shall be given exclusive authority to explore, develop, and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation on behalf of the putative class; Co-Liaison Counsel for the Individual Actions shall have

exclusive authority to explore, develop, and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation on behalf of their own retained clients and shall likewise be tasked with negotiating any framework that might apply to the universe of Individual Actions in this litigation. Nothing in this provision shall be construed to prevent counsel from negotiating on entering into an agreement regarding settlement on behalf of their own, individually retained client(s).

(iv) Maintain adequate files of all pretrial matters and have them available, under reasonable terms and conditions, for examination by class members or individual plaintiffs or their attorneys.

(v) Prepare periodic status reports summarizing their work and progress. These reports shall be submitted to class counsel as well as counsel for plaintiffs in the individual actions.

(vi) Perform any tasks necessary and proper for Interim Co-Lead Class Counsel or Co-Liaison Counsel for the Individual Actions to accomplish its responsibilities as defined by the Court's orders.

(vii) Keep the other plaintiffs' counsel advised of the progress of the litigation and consult them about decisions significantly affecting their clients; Interim Co-Lead Class Counsel and Co-Liaison Counsel shall exercise judgment about limits on this communication to promote the

objectives of efficiency and economy still protecting the interests of other plaintiffs' counsels' clients.

(viii) Generally act fairly, efficiently, and economically in the interests of all parties and parties' counsel and seek to oversee the activities of Plaintiffs' counsel working on this matter to promote its efficient litigation and avoid unnecessary expenditures of time and expense.

(ix) Perform such other functions as may be expressly authorized by further orders of this Court. The Court retains the authority to modify this Order at any time.

2. The Court appoints the following firms to serve on the Plaintiffs' Executive Committee for the Proposed Class that will perform functions on behalf of the putative Class at Interim Co-Lead Class Counsel's direction:

- a. Stephen E. Morrissey of Susman Godfrey LLP;
- b. Paul F. Novak of Weitz & Luxenberg, P.C.;
- c. Esther Berezofsky of Berezofsky Law Group LLC;
- d. Peretz Bronstein of Bronstein, Gewirtz & Grossman, LLC; and
- e. Teresa A. Bingman of the Law Offices of Teresa A. Bingman, PLLC.

3. The Court appoints Mark McAlpine of McAlpine P.C. to the role of Liaison Counsel for the *Mason* State Court Class Action.<sup>1</sup> In that capacity,

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<sup>1</sup> *Mason v. Lockwood Andrews & Newnam, P.C.*, No. 16-106150-NM (Mich. Cir. Ct., Genesee Cty. filed Jan. 25, 2016).

McAlpine PC may perform work on behalf of the putative class at the direction of Interim Co-Lead Class Counsel.

Dated: October 26, 2017  
Ann Arbor, Michigan

s/Judith E. Levy  
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JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 26, 2017.

s/Shawna C. Burns  
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SHAWNA C. BURNS  
Case Manager